

Exhibit G

March 26, 2019

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

- - - - -x
IN RE: CATHODE RAY TUBE (CRT) : MASTER FILE NO.:
ANTITRUST LITIGATION 07-CV-5944-JST
: MDL NO.: 1917

- - - - -x

VIDEOTAPED DEPOSITION OF:
DONALD C. CLARK, PH.D.

Washington, D.C.

March 26, 2019

Reported by:
Misty Klapper, CRR, RMR
Job No.: 265384

Donald Clark, Jr.
March 26, 2019

2

March 26, 2019
9:36 a.m.

Held at the offices of:

BAKER BOTTS, LLP
1299 Pennsylvania Avenue, N.W.
Suite 1000
Washington, D.C. 20006-6801

Taken pursuant to notice, before Misty
Klapper, Registered Professional Reporter, Certified
Realtime Reporter, and Notary Public in and for the
District of Columbia.

Donald Clark, Jr.
March 26, 2019

3

1 APPEARANCES:

2 GEOFFREY C. RUSHING, ESQ.
3 SAVERI & SAVERI
4 706 Sansome Street
5 San Francisco, California 94111
6 (415) 217-6810
7 E-mail: grushing@saveri.com

8 AND

9 ROBERT KLIPPER, ESQ.
10 KELLOGG, HANSEN
11 1615 M Street, N.W.
12 Suite 400
13 Washington, D.C. 20036
14 (202) 326-7936
15 E-mail: rklipper@kelloggghansen.com
16 COUNSEL FOR THE DIRECT PURCHASER
17 PLAINTIFFS

18 MARK SCHIRMER, ESQ.
19 STRAUS & BOIES, LLP
20 4041 University Drive
21 Fifth Floor
22 Fairfax, Virginia 22030
23 (901) 230-4697
24 E-mail: mschirmer@straus-boies.com
25 COUNSEL FOR THE INDIRECT PURCHASER
PLAINTIFFS

PETER HUSTON, ESQ.
BAKER BOTTS, LLP
101 California Street
Suite 3600
San Francisco, California 94111
(415) 291-6211
E-mail: peter.huston@bakerbotts.com
COUNSEL FOR THE DEFENDANT

21 ALSO PRESENT:

22 CHARLIE WIDNER, VIDEO OPERATOR
23
24
25

Donald C. Clarke, et al.
March 26, 2019

4

C O N T E N T S

WITNESS:	EXAMINATION BY:	PAGE:
Donald C. Clarke	Mr. Rushing	6
	Mr. Schirmer	158

E X H I B I T S

NO.:	DESCRIPTION:	PAGE:
8426	Declaration of Donald Clarke	9
8427	Plunkett Ex. 32	37
8428	Accounting Standards for Enterprise No. 33	61
8429	Plunkett E. 11	65
8430	Plunkett Ex. 3	85
8431	Plunkett Ex. 55	91
8432	Plunkett Ex. 33	118
8433	Plunkett Ex. 1	133
8434	Ministry of Finance Letter	136

*Exhibits marked and attached.

Donald Clarke, et al.
March 26, 2019

5

P-R-O-C-E-E-D-I-N-G-S

VIDEO OPERATOR: This is the videotaped deposition of Donald Clarke, taken in the matter of in re: Cathode Ray Tube, CRT Antitrust Litigation, MDL Number 1917, filed in the United States District Court for the Northern District of California, San Francisco Division, Case Number 3:07-CV-05944-JST.

This deposition is being held at Baker Botts on March 26th 2019. My name is Charlie Widner from U.S. Legal Support and I'm the video specialist. The Court Reporter today is Misty Klapper, also from U.S. Legal Support.

We're going on the record at 9:36 a.m. Counsel has been previously noted on stenographic record. The Court Reporter may now swear in the witness.

DONALD CLARKE,

The Witness herein, called for examination by counsel for the Direct Purchaser Plaintiffs, having been duly sworn, was examined and testified as follows:

Donald Clark, Ph.D.
March 26, 2019

6

1 EXAMINATION BY COUNSEL FOR THE DIRECT
2 PURCHASER PLAINTIFFS

3 BY MR. RUSHING:

4 Q. Good morning, Professor Clarke.

5 A. Good morning.

6 Q. Is that the way you like to be
7 addressed?

8 A. I don't care.

9 Q. Okay. My name is Geoff Rushing.
10 I'm with the law firm of Saveri & Saveri, Inc.
11 I represent, along with others, the Direct
12 Purchaser Plaintiffs class in this case.

13 Robert Klipper is here with me
14 from the firm -- from the Kellogg Hansen firm
15 and Mark Schirmer is here representing the
16 Indirect Purchaser Plaintiffs class.

17 Can you please state your full
18 name and spell it?

19 A. Donald Clary Clarke,
20 D-O-N-A-L-D, middle name C-L-A-R-Y, last name
21 C-L-A-R-K-E.

22 Q. Thank you.

23 I believe you've had your
24 deposition taken before, so I'm going to run
25 through the rules of the road quickly here.

1 the top of another document, for example, an
2 audited financial report?

3 A. I could not say.

4 Q. In paragraph 30 of your
5 declaration you're referring to this exhibit
6 and you say, The document itself is labeled
7 printed by the State-owned Asset Supervision
8 and Administration Commission, indicating
9 SASAC's close connection with Irico Display,
10 not just its grandparent, Irico Group.

11 Do you see that?

12 A. Yes.

13 Q. How -- how does that indicate a
14 close -- a close connection between SASAC and
15 Irico Display?

16 A. Well, to me, I drew that -- I
17 guess I characterized it as indicating a close
18 connection simply because, you know, for --
19 for the fact that I stated that SASAC is, you
20 know, printing up the form for Irico Display
21 to be using.

22 And, you know, SASAC does not,
23 to the best of my knowledge, you know, print
24 up the forms for audit reports for enterprises
25 that have nothing to do with the state.

1 documents from the late '90s to show, at least
2 not enough documents that I saw.

3 Q. Okay. But my question is, did
4 you in -- in -- if you look at subparagraph
5 D --

6 A. Yes.

7 Q. -- the two thousand -- the
8 November 2007 recommendation, which is
9 Irico -- it's the last page of the exhibit --

10 A. Yes.

11 Q. -- the document refers to -- I
12 mean, the language in the translation it uses
13 anyway is that the individuals are recommended
14 to be candidates for the various offices.

15 Do you see that?

16 A. Yes.

17 Q. But then later in that paragraph
18 you characterize the recommendations as, in
19 fact, instructions.

20 Do you see that?

21 A. Yes.

22 Q. And the inference -- you -- you
23 infer that they were, in fact, instructions
24 based on the fact that -- that they were
25 all -- they all assumed the positions to which

1 they had been nominated, correct?

2 A. Yeah, that that, you know, kind
3 of makes it evident that they were
4 instructions.

5 Q. Right. And that's -- and -- and
6 that opinion is based solely on the fact that
7 they eventually were listed as having those
8 jobs in the annual report you referred to?

9 A. I wouldn't say based solely,
10 because, I mean, you're -- you're correct that
11 for the '90s I don't have a piece of evidence
12 that shows these instructions or these
13 nominations were ever, you know, actually
14 effectuated.

15 But I would be extremely
16 surprised if they had not been because, you
17 know, just from, you know, what we know about
18 Irico Group's relationship with -- sorry,
19 Irico Display's relationship with -- with
20 Irico Group and just, you know, frankly, you
21 know, what -- what I know about corporate
22 governance in general.

23 So for -- let me give you an
24 example. Probably maybe about ten years ago
25 there were -- the -- the state decided to do

1 some reorganizing of China's mobile telephone
2 industry. And I think there were about three
3 companies in that industry, all of which were
4 publicly listed companies.

5 And they did a -- a kind of a
6 musical chairs where the head of company A
7 went to B and B went to C and I think C went
8 over to A. And, you know, that was all done
9 very clearly pursuant to a state policy.

10 You know, relevant instructions
11 were given. I'm sorry to use the passive
12 rather than the active, because I don't know
13 who actually gave them, but, you know,
14 instructions were given that this is going to
15 happen. Board of directors votes were made to
16 make these appointments happen.

17 You know, and everybody kind of
18 understands that in a state, you know,
19 controlled corporation like that, even if it's
20 publicly listed, you know, when you get
21 instructions from -- you know, that have been
22 clearly -- you know, by senior management that
23 come from the party personnel department, that
24 this is what you do.

25 Q. Okay.

1 A. So that's just kind of the
2 background from which I'm working when I look
3 at these documents and see these things. And
4 that's kind of the background, you know,
5 knowledge that I'm bringing to it.

6 Q. But you have no -- there's no
7 evidence to suggest that these people were not
8 qualified for the jobs they were nominated to,
9 correct?

10 A. Correct.

11 Q. And did you inquire -- did you
12 make -- and -- and -- strike that.

13 And did you inquire as to
14 whether the proper corporate procedures were
15 followed as specified, for example, in the
16 Articles of Association as to this appointment
17 in November of 2007?

18 A. November 2007. No, I assume
19 that the proper procedures were followed and
20 the shareholders voted as they were supposed
21 to vote or the directors voted as they were
22 supposed to vote.

23 You know, people not following
24 instructions is very rare. I mean, everybody
25 kind of understands what you're supposed to

1 do.

2 Q. Okay. All right. I understand
3 that, but -- but in terms of these specific
4 appointments to Display --

5 A. Right.

6 Q. -- the people nominated were --
7 strike that.

8 Do you have any evidence that as
9 to these specific people appointed or --
10 strike that.

11 As to these individuals
12 nominated in November 2007, do you have any
13 specific evidence that they were not legally
14 appointed to their positions pursuant to the
15 company law and the Articles of Association of
16 Display?

17 A. No, I -- I don't think so.
18 That's not my kind of claim at all, that there
19 was something illegal about it.

20 So, for example, if we look at
21 paragraph D, we see Irico Group, which is at
22 that time, I think, the grandfather in a
23 sense, not the direct parent, but the parent's
24 parent, of Irico Display saying here's the
25 person we think should be general manager,

1 here's the person we think should be deputy
2 general manager. Those are board
3 appointments.

4 So, you know, who -- who is
5 reading this document? The person that's
6 reading this document are the members of the
7 board of Irico Display, you know, who are
8 basically appointed, again, by Irico Group.
9 And they see these instructions and these are
10 what their superiors are telling them to do
11 and -- and then they do it.

12 And the way they obey the
13 instruction is to cast the necessary vote.
14 You know, they have a board meeting and they
15 say okay, so we've been told to appoint this
16 guy as general manager, this guy as deputy
17 general manager, this person as chief
18 financial officer, you know, everybody in
19 favor, raise their hand. And they'll all
20 raise their hand. That is how I picture the
21 process going.

22 Irico Group cannot, you know,
23 simply by issuing a document, you know, put
24 this manager on the payroll, you know. That
25 has to be -- you know, there has to be the

Donald Mark, PhD
March 26, 2019

129

1 formal board resolution, especially because
2 it's a listed company.

3 Q. Right. And so it's your
4 expectation that the proper procedures were
5 followed in this case?

6 MR. HUSTON: Objection, asked
7 and answered.

8 THE WITNESS: Yes, I -- I think
9 it's very likely the proper procedures, you
10 know, the formal procedures were followed.

11 BY MR. RUSHING:

12 Q. Okay. Did you review the
13 Articles of -- strike that.

14 Have you reviewed -- strike
15 that.

16 Did you review the Display
17 Articles of Association as part of your work
18 in preparing this declaration?

19 A. Yeah, my recollection is that
20 I -- I looked at some of it, some of the
21 Articles. I believe I had that document
22 available to me in Chinese in any case.
23 That's my recollection. I -- I don't think I
24 cite it in my declaration, so that's why I
25 can't recall for sure.